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EXAMINER

ALTER, ALYSSA M

ART UNIT

PAPER NUMBER

3762

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary

Application No.

10/634,590

Applicant(s)

LIEBERGESELL, SACHIKO

Examiner

Alyssa M. Alter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
 4a) Of the above claim(s) 5, 6, 13, 14, 19 and 20 is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-4, 7-12, 15-18, 21 and 22 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 05 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date 8/5/03
 4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
 5) ☐ Notice of Informal Patent Application (PTO-152)
 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22, drawn to an apparatus for promoting oral hygiene, classified in class 607, subclass 115.
- II. Claims 23-30, drawn to a method for promoting oral hygiene, classified in class 607, subclass 2.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used to practice another materially different process, such as dental analgesia, or by a process as claimed could be practiced by another materially different apparatus not requiring a pair of flexible pads but rigid electrodes.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with George Rauchfuss on July 11, 2005 a provisional election was made with traverse to prosecute the invention of an apparatus, claims 1-22. Affirmation of this election must be made by applicant in replying to this

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Office action. Claims 23-30 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

1. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites the limitation "other periodontal problems" in lines 1-2. The claim is indefinite since the examiner cannot determine the meets and bounds of the claim limitation.

As to claims 5-6, 13-14 and 19-20, claims 5 and 27 are improper claims. The scope of the claim is unclear because the examiner cannot determine what aspects of the waveform the Applicant intended on incorporating. The examiner recommends the Applicant re-write the claim as a series of dependent claims or include all the relevant information about the waveforms in the claim.

As to claims 9-20, claims 9-14 recite the limitation "are held to discharge direct electrical current when the said come into contact" in line 4. The examiner is unsure what element "the said" is referring to and if "are held" is referring to the electrical conductors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-4, 7-12, 15-18 and 21-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Motoi (US 6,584,359). Motoi discloses a beauty device for cosmetic use with electrical stimulation with a multiple alternating current square-waves of different patterns. The beauty device as seen in figures 3 and 6 is placed in contact with the skin of the face. Figure 2 displays the alternating current waveforms utilized in this invention. In addition to this alternating current waveform, "with the electrical current control device 1, it is also possible to discharge a direct current through the connection cord 28 through the pair of conductors 27, as is indicated in FIG. 5 by establishing a direct current output terminal" (col. 15, lines 33-37).

The electrically conductive gloves 3a and 3b, are considered by the examiner to be flexible electrodes and are "designed with hooks 5a and 5b that serve the role of connecting the electrically conductive gloves 3a and 3b to the connecting cord 2. The connecting cord 2 has a pair of lead lines 2a and 2b for the electrically conductive gloves 3a and 3b. At one end of the lead line pair 2a and 2b, there are snaps 6a and 6b with the lead lines to be connected to hooks 5a and 5b of the electrically conductive

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gloves 3a and 3b when the gloves are put on and taken off the hands at will. The other end of the lead lines 2a and 2b are both connected to a common jack 7 in mid course. By means of connecting the jack 7 of the connection cord 2 to the output terminal 8 of the electrical current control device 1, the alternating currents of the plural number of varieties of alternating current wave forms that result from the repetitive combination of the alternating current square-waves of differing patterns and the further repetitive combination thereof to form the cosmetic use alternating current wave forms that are depicted on FIG. 2 are supplied to the electrically conductive gloves 3a and 3b"(col. 7, lines 14-32).

"The conductivity gloves that contain silver as conductive material, for areas wherein the skin is sensitive, such as the face, the voltage should be ± 0.3 to ± 1.2 V, and ± 0.9 to ± 3.5 V for areas where the surface skin is relatively thick, such as the body, and the electrical current stimulation should be applied under electrical conductivity conditions of 500 μ A or less"(col. 5, lines 25-31). In addition, "the cosmetic use alternating current wave form WA1 that is described above is a wave form in which the above-described series combination is repeated in cycles of 12.8 seconds"(col. 9, lines 54-57).

The functional language and introductory statement of intended use of claims 1 and 7-14, have been carefully considered but are not considered to impart any further structural limitations over the prior art. Since Motoi utilizes the same current, voltage and/or waveforms as claimed by the Applicant, Motoi is therefore capable of being used to treat oral hygiene. In addition nothing prevents Motoi gloves of silver and acrylic fiber

or cotton swab electrodes from being placed in the mouth for treatment. Therefore, they are capable of being used for the treatment of the gums.

Specification

1. The disclosure is objected to because of the following informalities: improper spacing. There are inappropriate spaces separating letters in words throughout the entire specification. Appropriate correction is required.

Claim Objections

1. Claims 1-30 are objected to because of the following informalities: improper spacing. There are inappropriate spaces separating letters in words throughout the entire claims. Appropriate correction is required.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Detsch (US 4,509,519) discloses an oral electrical treatment apparatus and method.
2. Fischer et al. (US 2,004,751) discloses a low voltage generator.
3. Nesmeyanov et al. (US 4,109,660) discloses a method of tooth anesthetizing during dental treatment and device for effecting same.
4. Liss et al. (US 4,550,733) discloses an electronic dental analgesia apparatus and methodology.
5. Halpern (US 4,676,257) discloses a dental anesthesia apparatus.

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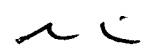
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Alyssa M Alter
Examiner
Art Unit 3762



GEORGE R. EVANISKO
PRIMARY EXAMINER

7/15/15